

HOUSE BILL 2890
By Bone

AN ACT relative to a residential construction impact fee for any municipality incorporated under the general law, in a county having a population of not less than sixty-seven thousand six hundred (67,600) nor more than sixty-seven thousand nine hundred (67,900) according to the 1990 federal census or any subsequent such census.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1.

As used in the Act, unless a different meaning appears from the context:

(a) "Building" means any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind. The term includes mobile homes but does not include buildings used for agriculture purposes.

(b) "Building Permit" means a permit for development issued by the municipality for construction of a residential building within the municipal limits.

(c) "Transportation Related Capital Improvement Program" means a schedule of future projects, listed in order of construction priority, together with cost estimates and the anticipated means of financing each project, and approved by the governing body.

(d) "Certificate of Occupancy" means a license for occupancy of a building or structure issued in the municipality.

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(e) "Development" means the construction, building, reconstruction, erection, extension, betterment, or improvement of land providing a building or structure or the addition to any building structure, or any part thereof, for residential use.

(f) "Dwelling Unit" means a room, or rooms connected together constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease on a daily, weekly, monthly, or longer basis; physically separated from any other room(s) of dwelling units which may be in the same structure; and containing independent cooking and sleeping facilities.

(g) "Floor Area" means the total of the gross horizontal area of all floors, including usable basements and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings or the center lines of party wall separating such buildings or portions thereof, or within lines drawn parallel to and two (2) feet within the roof line of any building or portions thereof without walls, but excluding, in the case of non-residential facilities, the following: arcades, porticoes, and similar open areas which are accessible to the general public, and which are not designed or used as sales, display, storage, service, or production areas.

(h) "Master Plan" means any official Land Use Plan adopted by the municipal governing body.

(i) "Governing Body" means the governing body of any municipality incorporated under the general law in a county having a population of not less than sixty-seven thousand six hundred (67,600) nor more than sixty-seven thousand nine hundred (67,900) according to the 1990 federal census or any subsequent federal census.

(j) "Major Route Plan" means any plan adopted by the planning commission and governing body as a section of any Master Plan, showing, among other things, the general location, character, and extent of public road systems and the proposed

relocation, extension, widening and improvement to the existing road system of the municipality.

(k) "Municipality" means any municipality incorporated under the general law incorporated under the general law in a county having a population of not less than sixty-seven thousand six hundred (67,600) nor more than sixty-seven thousand nine hundred (67,900) according to the 1990 federal census or any subsequent federal census.

(l) "Person" means any individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit, and the plural as well as the singular number.

(m) "Place of Worship" means that portion of a building, owned by a religious institution which has tax-exempt status, which is used for worship services and related functions, but does not include buildings or portions of buildings which are used for purposes other than for worship and related functions or which are or are intended to be leased, rented or used by persons who do not have tax-exempt status.

(n) "Public Building" means a building owned by the state of Tennessee or any agency thereof, a political subdivision of the state of Tennessee, including but not necessarily limited to counties, cities, school districts and special districts, or the federal government or any agency thereof.

(o) "Transportation Related Projects" includes any one (1) or more or any combination of the following: bridges, tunnels, viaducts, flood control, streets, roads, avenues, alleys, highways, sidewalks, curbs, gutters, storm water sewers or drains, and all property real and personal, appurtenant thereto or connected with such work, undertaking or project, and the existing work, undertaking or project, if any, to which such work, undertaking or project is an extension, addition, betterment or improvement.

(p) "Residential" means the development of any property for a dwelling unit or units.

(q) "Subdivision Regulations" means the regulations adopted by the municipality regulating construction of buildings and the subdivision of land.

(r) "Zoning Regulations" means any regulations adopted by the governing body pursuant to state statutory authorizations by which the municipality regulates the zoning and use of property located within municipal limits.

SECTION 2. It is the intent and purpose of this act to authorize the municipality to impose an impact fee on new residential construction within the municipality payable at the time of issuance of a building permit so as to ensure and require that the persons responsible for new development share in the burdens of growth by paying their fair share of the cost of new and expanded public transportation-related projects made necessary by such development.

SECTION 3. Engaging in the act of development within the municipality except as provided in Section 5 herein, is declared to be a privilege upon which the municipality may, by ordinance of the governing body, levy an impact fee in an amount not to exceed the rate set forth in Section 6.

SECTION 4. The governing body shall impose the tax authorized herein by ordinance after adopting a Master Plan and Major Route Plan indicating the need for and cost of public transportation-related projects anticipated to be funded, in part, by this tax and after finding that the need for such public transportation-related projects is related to new development in the municipality. The ordinance of the governing body imposing the impact fee shall state the rate of the impact fee on new residential and nonresidential construction. The governing body shall, by ordinance, adopt administrative guidelines, procedures, regulations, and forms necessary to properly implement, administer and enforce the provisions of this act.

SECTION 5. This Act shall not apply to development of:

- (1) Public Buildings;
- (2) Places of Worship; and
- (3) Commercial Property.

SECTION 6. For the exercise of the privilege described herein, the municipality may impose an impact fee on new construction not to exceed fifty cents (50¢) per gross square foot of new residential development.

The municipality may develop an impact fee rate schedule by which residential uses are classified by type for purposes of imposition of the impact fee authorized herein.

SECTION 7. The impact fee established in the act shall be collected at the time of application for a building permit for construction as herein defined or, if a building permit is not required, at the time of application for a Certificate of Occupancy by the municipality.

SECTION 8. All tax funds collected shall be used by the municipality for the purpose of providing improved public transportation-related facilities, the need for which is reasonably related to new development.

SECTION 9. The authority to impose this impact fee on new development in the municipality is in addition to all other authority to impose taxes, fees, assessments, or other revenue raising or land development regulatory measure granted either by private acts of the state of Tennessee and the imposition of such impact fee, in addition to any other authorized tax, fees, assessment or charge, shall not be deemed to constitute double taxation.

SECTION 10. The provisions of this act shall in no manner repeal, modify, or interfere with the authority granted by any other public or private law applicable to the municipality. This act shall be deemed to create an additional and alternative method for the municipality to impose and collect an impact fee for the purpose of providing public transportation-related facilities made necessary by new development in the municipality.

SECTION 11. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the governing body of any municipality to which it may apply before October 1, 1998. Its approval or nonapproval shall be proclaimed by the presiding officer of the governing body and certified by such officer to the secretary of state.

SECTION 12. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 11.